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Chairman: Mr. Mochochoko ..... (Lesotho)

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The meeting was called to order at 3.10 p.m.

Agenda item 156: Report of the United Nations Commission on International Trade Law on the work of its thirty-second session (*continued*) (A/54/17)

1. **Mr. Anwar** (Pakistan) said that the work of the United Nations Commission on International Trade Law (UNCITRAL) was particularly important in the era of globalization and liberalization of the world economy. The Commission's work on the draft legislative guide on privately financed infrastructure projects was of particular interest to countries like his own which sought foreign capital to finance such projects. His delegation welcomed the emphasis the Commission had placed on the need for a balance between the objective of attracting private investment for infrastructure projects and the protection of the interests of the host Government and the users of the infrastructure facility. Because the diversity of national legal traditions and administrative practices made formulating model legislation difficult, his delegation supported the idea that legislative recommendations should be reviewed with the assistance of experts, subject to the participation of all Member States.

2. His delegation regretted that no consensus had been achieved on the preparation of uniform rules on digital signatures but noted with satisfaction that the Commission would continue its work in that area. The Commission's work on the draft Convention on Assignment in Receivables Financing was of particular importance for the developing countries, since clear and unambiguous rules would increase the availability of credit financing to such countries at more affordable rates.

3. While the proposal by Australia concerning the establishment of a working group to develop a model law on corporate insolvency was a useful one, his delegation recognized the difficulties the Commission was likely to encounter in developing universally acceptable model legislation. It was therefore in favour of convening a working group to prepare feasibility proposals for the Commission's consideration at its thirty-third session.

4. The effective participation of the developing countries in the work of the Commission was essential, and the Commission's training and technical assistance activities for developing countries were equally important. His delegation therefore supported the Commission's recommendations for an increase in both human and financial resources to ensure the effective implementation of its training and assistance programme.

5. **Mr. Politi** (Italy) welcomed the progress that had been made at the Commission's thirty-second session. His delegation was particularly pleased that the Commission had been able to examine the entire draft of the legislative guide on privately financed infrastructure projects which represented a considerable improvement over the previous draft. It was important to keep a balance between attracting private investment for infrastructure projects and protecting the interests of the host Government and the users of the infrastructure facility. His delegation looked forward to a comprehensive review of the guide by the UNCITRAL secretariat, with the assistance of experts, and to a rapid conclusion of work on that subject.

6. His country also attached great importance to the draft uniform rules on legal aspects of digital signatures and certification authorities. Every effort should be made to ensure that they were ready for consideration and adoption by the Commission at its next session. Future work in the field of electronic commerce should concentrate on areas such as on-line dispute settlement systems and applicable law and jurisdiction.

7. Although a number of specific issues remained to be addressed, in the preparation of the draft Convention on Assignment in Receivables Financing, his delegation was confident that the draft would be ready for consideration by the Commission at its thirty-third session. The unification of applicable rules would enhance the certainty and predictability of credit obtained on the basis of receivables and would increase the availability of credit at more affordable rates, thereby benefiting many developing countries.

8. With regard to the possible future work of the Commission in the area of international commercial arbitration and insolvency law, his delegation was in favour of referring a number of priority items relating to international commercial arbitration to a working group and looked forward to the outcome of the next session of the Working Group on Insolvency Law, which was to prepare a feasibility proposal.

9. The further development of the case law on UNCITRAL texts and the activities undertaken through the Commission's training and assistance programme were evidence of the Commission's continuing commitment and dedication in performing its tasks. His delegation attached the utmost importance to the efforts to coordinate the Commission's work with that of other bodies active in the field of international trade law, in particular the Economic Commission for Europe (ECE) and the International Institute for the Unification of Private Law (UNIDROIT).

10. **Ms. Willson** (United States of America) noted that the Commission had continued to focus on technical and achievable legal and economic projects which were potentially of benefit to States at all levels of economic development and in every region. The Commission was particularly to be commended for its non-politicized approach to current developments in trade and commerce.

11. Her delegation welcomed the considerable progress made in three areas by the Commission at its thirty-second session. First, it was to be hoped that the draft Convention on Assignment in Receivables Financing would be completed and that the Commission would be able to recommend that the Sixth Committee should submit it to the General Assembly for adoption at its fifty-fifth session. The draft Convention ought to receive wide support from developing and emerging States which stood to gain most from its treaty regime.

12. Progress had also been made in producing legislative guidance for States that wished to enhance their infrastructures through new means of international project finance. The most recent finance methods linked private markets with governmental supervision and were compatible with efforts to bring about privatization and a reduction of direct expenditures in many areas. Those arrangements were sometimes incompatible with older local laws, however. In order to ensure that the developing and emerging States derived the maximum economic benefit from the new arrangements, the Commission's legal standards and guidance must take careful note of international financial and capital markets and foster a willingness to modify existing national laws. While her delegation hoped that work on the project could be completed at the Commission's next session, more time might be necessary to achieve those goals.

13. Work had also progressed in the effort to find consensus on legal guidance for electronic signature and message authentication systems. However, it might be premature to seek to finalize the topic at the present stage, since commercial applications were developing rapidly. The Commission could, if necessary, consider resuming its work when the application of the relevant technologies in the commercial marketplace had become sufficiently clear to enable States to reach a meaningful consensus on legal standards.

14. The Commission should also consider, at its earliest convenience, possible new projects in such areas of electronic commerce as the electronic transfer of rights to tangible goods, rights in electronic data and electronic transaction contract law. Increasing interest was being expressed in a proposal for a multilateral convention which would include those sections of the Commission's Model Law on Electronic Commerce that had gained wide support.

15. Two other important topics, international commercial arbitration and cross-border insolvency of commercial entities, had been discussed at the thirty-second session. With regard to the former, her delegation was prepared to support further work if there was a consensus on the prospects for achievable projects. The interest expressed in the second topic reflected wide recognition of the important work completed by the Commission on that topic in 1997. She was pleased to note that the provisions of the UNCITRAL Model Law on Cross-Border Insolvency were contained in a bill before the United States Congress which, if adopted, would revise United States bankruptcy laws. Her delegation hoped that other States would consider taking similar action with a view to providing better solutions for economically distressed enterprises whose workforce, assets and markets spanned the borders of a number of countries.

16. A proposed topic for consideration at the Commission's thirty-third session was whether there was sufficient support among maritime and shipping interests for a new effort to seek harmonization in the international carriage of goods by sea. Her delegation would support that effort if it was undertaken, and agreed that the scope of such work should cover all relevant issues and should seek accommodation of the various international instruments currently in existence.

17. Many countries, especially the developing and emerging States, had benefited from the technical assistance and regional programmes provided by the UNCITRAL secretariat, which had performed all of its tasks in support of the Commission in a commendable manner. It would be a continuing challenge to maintain that high level of professionalism with existing resources. In that connection, her delegation had listened with interest to the comments made at the 3rd meeting by the representative of Japan and agreed that the various ways of addressing increasing workload demands should be examined carefully.

18. **Mr. Balanandan** (India) welcomed the progress made by the Commission in the preparation of a legislative guide on build-operate-transfer projects, which would assist States in preparing or modernizing national legislation relating to such projects, thereby accelerating infrastructure development. It was necessary to find a balance between the interests of investor companies and those of host Governments and users.

19. His delegation noted that, in finalizing the text of the draft Convention on Assignment in Receivables Financing,

the Working Group on International Contract Practices had sought to avoid conflicts between the draft Convention and other instruments, including the draft UNIDROIT Convention on International Interests in Mobile Equipment. Where such conflicts were unavoidable, his delegation considered that they should be settled by providing for the precedence of one or the other text.

20. His delegation shared the preliminary conclusion of the Working Group on Electronic Commerce regarding the feasibility of preparing draft uniform rules on digital signatures and certification authorities and believed that it would be premature to make any decision on the exact scope and form of such rules. The Working Group should focus on issues of digital signatures, and the uniform rules should be consistent with the media-neutral approach taken in the UNCITRAL Model Law on Electronic Commerce, without discouraging the use of other authentication techniques.

21. Regarding the Commission's possible future work in the field of international commercial arbitration, he recalled the practical problems that had been identified during the special observation of New York Convention Day in 1998. His delegation appreciated the UNCITRAL secretariat's continued monitoring of the implementation of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, its work in publicizing court decisions and arbitral awards, and its programme of training and technical assistance.

22. **Mr. Mekprayoonthong** (Thailand) welcomed the progress made by UNCITRAL on the draft legislative guide on privately financed infrastructure projects, which would be of tremendous use to developing countries. His delegation endorsed the Commission's efforts to maintain an equitable balance between the need to attract private investment for infrastructure projects and the need to protect the interests of the host Government and users.

23. The use of working groups, such as the Working Group on International Contract Practices, to carry out the Commission's mandate had been successful. His delegation hoped that at its current session the Working Group would expedite work on the draft Convention on Assignment in Receivables Financing so that it could be adopted by UNICTRAL at its thirty-third session. While his delegation agreed that the draft Convention had the potential to increase the availability of lower-cost credit, it reaffirmed its position that assignment under the draft Convention should not adversely affect the rights and obligations of debtors. Moreover, the draft Convention should take into account the varying legal principles of Member States so as to facilitate its wide acceptance.

24. A draft law on electronic commerce, based on the UNCITRAL Model Law on Electronic Commerce, was about to be submitted to the Thai Cabinet for approval, and his country was drafting several other laws on the same basis. The Commission's repository of information on state-of-the-art electronic commerce and the experience of other countries could provide a useful reference for national lawmakers. UNCITRAL should therefore continue to provide training and technical assistance to developing countries through trade law seminars and exchanges of expertise. While acknowledging the Commission's budgetary constraints, his delegation hoped that appropriate financial support would be provided by developed countries and the private sector for that purpose.

25. His Government also supported the Commission's decision to undertake further studies on international commercial arbitration and cross-border insolvency. While a certain degree of harmonization had been achieved in those areas, deliberations on many issues were still pending. It was to be hoped that further progress would be made in due course, especially as the economic crises in South-East Asia highlighted the need for economic laws to sustain the region's recovery.

26. **Mr. Franco** (Colombia) said that his delegation, while associating itself with the statement made by the representative of Mexico on behalf of the Rio Group, wished to comment on the progress of specific trade law issues in his country.

27. His delegation noted with satisfaction that the draft legislative guide on privately financed infrastructure projects was complete. The preparation of such a guide was important for developing countries and countries with economies in transition. Clear rules offering legal security to investors with regard to returns on their long-term investments could reduce the need for public guarantees. The legislative guide should therefore contain provisions to ensure continuity in the provision of services and the observance of safety and environmental rules of interest to host Governments. In an effort to eliminate uncertainty for investors, the Colombian Constitution had been amended in 1999 to abolish administrative expropriation without compensation.

28. On 18 August 1999 the President of Colombia had signed a law on electronic commerce, based on the UNCITRAL Model Law on Electronic Commerce, that defined and regulated the use of data messages and digital signatures and authorized the use of a certification system. The new law was intended to regulate the trends in commercial transactions carried out by means of electronic data interchange, with a view to providing the legal security

necessary for normal economic development. It would enable his country to enter the new millennium with a legal structure adapted to technological and commercial change. In implementing such a law, Colombia was a leader in Latin America.

29. On 15 June 1999 the Colombian Congress had approved the 1980 United Nations Convention on Contracts for the International Sale of Goods. That decision was currently under review by the Constitutional Court pending its approval by the President, and it was to be hoped that the instrument would be ratified in due course.

30. **Mr. Monagas-Lesseur** (Venezuela) said that his delegation fully supported the remarks made by the representative of Mexico on behalf of the Rio Group and welcomed the Commission's completion of the draft legislative guide on privately financed infrastructure projects. In refining the guide, it would be important to maintain the appropriate balance between attracting private investment and protecting the interests of the host Government and users of the infrastructure. In addition, the guide should contain alternatives appropriate to the various legal systems, with emphasis on clauses that could serve as legislative models.

31. Despite the obstacles the Working Group on Electronic Commerce had encountered in reaching a consensus on a legal framework for the draft uniform rules on electronic signatures, his delegation believed that the Working Group ought to be able to complete its work as mandated. Moreover, the Working Group was well equipped to prepare a draft international convention that would incorporate and further develop the rules contained in the Model Law on Electronic Commerce and the draft uniform rules on electronic signatures.

32. There was an urgent need for a uniform law or general rules on assignment in receivables financing, which would increase the availability of lower-cost credit for businesses in developing countries. The Working Group on International Contract Practices should therefore complete its work on the draft Convention so that the Commission could consider it at its thirty-third session.

33. With regard to possible future work of the Commission, his delegation supported the establishment of a working group to consider possible issues in international commercial arbitration and the feasibility of developing a model law on conciliation. In addition, the financial crises of recent years had underscored the need for strong insolvency and debtor-creditor regimes. His delegation therefore approved the Commission's decision to instruct the Working Group on Insolvency Law to explore the possibility of preparing a model law on corporate insolvency.

34. His delegation wished to see greater emphasis given to training and technical assistance in order to promote greater awareness of existing UNCITRAL texts, particularly in developing countries that lacked specialists in international trade law. Wider participation by nationals of developing countries in the internship programme of the Commission secretariat would also be valuable, and UNCITRAL texts should be placed on the Commission's Web site in all official languages of the Organization. His delegation hoped that the General Assembly would allocate the necessary funds to carry out those programmes. Lastly, he noted that publication of the *UNCITRAL Yearbook* was considerably behind schedule; every effort should be made to publish it in all the official languages and to distribute it to Member States in a timely fashion.

35. **Mr. Suhendar** (Indonesia) said that over the years the Commission had been very effective in helping developing countries to engage in international trade on the basis of equality with developed countries. In the development of international trade law, the principle of equality among States should be interpreted as the right of every State and its people not just to exist but also to develop. International trade law should embody a set of rules promoting equity, redress and compensation for the inequality prevailing among nations.

36. In preparing of the legislative guide on privately financed infrastructure projects, it was important to maintain a balance between enhancing foreign investment for infrastructure projects and protecting the interests of host countries and users. The guide's usefulness to Governments in reviewing, updating and adopting national legislation on the subject could not be overemphasized. His delegation believed that the text of the guide offered sufficient flexibility to meet the needs of authorities working under different legal systems.

37. Guidance from the Commission was essential to developing countries in the preparation of national legislation on electronic signatures. In its work on public key infrastructures, the Working Group on Electronic Commerce should consider various models and structure its rules around the subscriber function, the certification function and the relying function. His delegation was pleased that the Commission was considering the recommendations of the Centre for the Facilitation of Procedures and Practices for Administration, Commerce and Transport (CEFACT) concerning electronic equivalents for the terms "writing", "signature" and "document" and the preparation of an

omnibus protocol to multilateral treaties to facilitate increased use of electronic commerce.

38. The availability of credit at more affordable rates in developing countries was crucial for promoting international trade. His delegation therefore looked forward to the completion of work on the draft Convention on Assignment in Receivables Financing.

39. In its future work, UNCITRAL should develop new rules on international commercial arbitration and conciliation and assess the existing rules in order to clarify the ambiguities they contained. His delegation commended the Commission's efforts to expand training and assistance programmes and to disseminate UNCITRAL texts, in part by using its Web site. It was to be hoped that financial resources would be increased to ensure implementation of those programmes. He urged the Commission to coordinate its efforts with those of international organizations such as the Afro-Asian Legal Consultative Committee in developing a uniform international body of trade law.

40. **Mr. Shin Hyun-Soo** (Republic of Korea) said that the legislative guide on privately financed infrastructure projects would be of great use to countries in development or transition that were unable to meet their increasing infrastructure needs through public capital investment. His delegation agreed that the UNCITRAL secretariat, assisted by experts, should review all the recommendations made and submit a draft text for adoption as soon as possible.

41. Given the drastic increase in Internet users worldwide, there was a pressing need for uniform rules to facilitate electronic commerce. His delegation fully supported the decision of the Working Group on Electronic Commerce to focus on public key infrastructures, because it felt that that approach would accelerate the final drafting of uniform rules on electronic signatures. It also agreed that emphasis on typical functions rather than a specific model would make it easier to develop a media-neutral set of rules at a later stage.

42. The draft Convention on Assignment in Receivables Financing would help to increase the availability of lower-cost credit, and his delegation hoped that it would be ready for consideration by the Commission at its thirty-third session. However, care must be taken to ensure that the different legal systems in use throughout the world were accommodated in the draft Convention.

43. The Republic of Korea considered it important to put existing UNCITRAL conventions and model laws into effect. The Government had passed national laws on electronic commerce and electronic signatures that were based on the UNCITRAL Model Law on Electronic Commerce and had recently appointed a national correspondent to monitor the implementation of the Commission's work. His delegation valued seminars conducted by the Commission secretariat in over 20 countries to promote awareness of UNCITRAL texts and hoped that such a seminar could be held in the Republic of Korea in the near future.

44. **Mr. Enkhsaikhan** (Mongolia) welcomed the Commission's emphasis at its thirty-second session on developing a legislative guide on privately financed infrastructure projects, an issue of great importance for developing countries and countries with economies in transition like his own. Mongolia had limited sources of domestic financing and technology but was keenly interested in developing its infrastructure. Its policy and legislation were directed at creating an appropriate legal environment for foreign investment by according equal treatment to domestic and foreign investors. The latest version of the draft legislative guide contained the main principles that needed to be reflected and struck a good balance between the interests of the parties involved. Despite some unresolved issues, it should be possible to adopt the draft at the Commission's thirty-third session.

45. Although not yet directly involved in electronic commerce, Mongolia, as a vast country located far from world markets and major trade routes, was eager to develop that promising form of trade and therefore welcomed the progress made on the draft uniform rules on electronic signatures. Their preparation was not only feasible but urgent, and his delegation hoped that they could be adopted at the next session of the Commission.

46. He agreed with the representative of Hungary that the draft Convention on Assignment in Receivables Financing could minimize the competitive disadvantages experienced by parties from developing countries or countries with transitional economies. It would also help their partners. His delegation hoped that the Commission would be able to finalize the draft Convention at its next session.

47. With regard to possible future work on insolvency law, his delegation agreed with the view that strong insolvency and debtor-creditor regimes were important for preventing or limiting financial crises and promoting rapid and orderly recovery from excessive indebtedness. There was thus a need to update insolvency laws and practices. The Commission's experience in drawing up the Model Law on Cross-Border Insolvency equipped it to address the issue, but duplication of work in that area should be avoided.

48. In view of the growth in volume and demand, it was evident that the system for the collection and dissemination of case law on UNCITRAL texts was highly successful and should be enhanced by strengthening the Commission secretariat, *inter alia*, by increasing the resources allocated to the Commission in the budget for the 2000-2001 biennium. He was pleased to report that the first UNCITRAL seminar ever held in Mongolia had enabled the Government to institute or consider changes in national legislation to harmonize it with UNCITRAL texts.

49. **Ms. Aguiar** (Dominican Republic) said that the process of economic reform and linkage to the global economy in the Dominican Republic had inspired renewed interest there in the work of the Commission. Since its development strategy was based on encouraging privatization, foreign direct investment and trade in services, the Government was particularly interested in the Commission's work in the area of privately financed infrastructure projects, electronic commerce and arbitration. She welcomed the substantial progress that had been made in preparing the legislative guide on privately financed infrastructure projects, which should be a useful tool in the complex process of recapitalization currently being undertaken in her country.

50. As a tourist destination and a country located in a strategic geographical region, the Dominican Republic experienced a heavy volume of electronic transactions; uniform rules on electronic signatures would help to create confidence in users of electronic means of payment.

51. Her delegation was also highly interested in the Commission's work on international commercial arbitration. The UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Arbitration Rules had had less success than hoped, in part because of a failure to disseminate them in developing countries. She agreed with previous speakers concerning the need to expand the Commission's work in developing countries, including, perhaps, an enhanced programme of internships with the Commission secretariat. A greater allocation of resources to the Commission would help it promote awareness of its work among Member States and enable it to hold regional seminars in both academic and business circles.

52. **Mr. Hanson-Hall** (Ghana) observed that the draft legislative guide on privately financed infrastructure projects covered most of the central issues and welcomed the fact that the perspectives of both the private and the public sectors had been taken into account. The guide had also taken due cognizance of different legal systems and endeavoured to achieve a balance that would be attractive to private investors, government investment and users, an approach welcome to countries like his own, which were seeking to attract capital through build-operate-transfer projects. The Commission's analysis of the discrepancies likely to arise in different legal systems with regard to such projects and its proposed modifications to ensure fair competition had been a major step forward. UNCITRAL had done well to take a cautious approach in such sensitive areas as the termination of projects, compensation and dispute settlement.

53. Significant progress had been made by the Working Group on Electronic Commerce. If consensus could be found on an internationally acceptable legal framework, it might be possible to complete work on the draft uniform rules on electronic signatures during the next session of UNCITRAL.

54. The draft Convention on Assignment in Receivables Financing would lead to increased availability of credit at more affordable rates and would eliminate or limit the competitive disadvantages experienced in the developing countries and countries with transitional economies. His delegation urged a speedy resolution of the outstanding issues, particularly those relating to the scope of the future Convention.

55. Regarding future work of the Commission, Ghana agreed that it was appropriate for UNCITRAL to undertake the much-needed task of modernizing insolvency law, although it should coordinate with other international organizations already working in the area. Since better use should be made of documents and information accumulated by UNCITRAL, the ongoing development of the system for the collection and dissemination of case law on UNCITRAL texts was welcome, but the Commission secretariat should be strengthened in view of the increased workload. His delegation was concerned that a number of requests for the useful training and technical assistance provided by UNCITRAL had had to be turned down for lack of resources, and the secretariat needed to be substantially strengthened to undertake those tasks as well.

56. **Mr. Korzachenko** (Ukraine) reviewed the recent advances UNCITRAL had made in several important areas and urged the completion in particular of the draft legislative guide on privately financed infrastructure projects. The Commission had rightly chosen a balanced approach that protected the interests of all involved, and its restructuring of the guide should prove beneficial.

57. Given the extensive and favourable experience with national enactments of the UNCITRAL Model Law on International Commercial Arbitration and the wide use of the UNCITRAL Arbitration Rules and Conciliation Rules,

his delegation welcomed the Commission's decision to consider several new topics in the area of commercial arbitration and suggested that priority should be given to conciliation and enforceability of settlement agreements. The Commission's monitoring of the implementation of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards was also valuable.

58. UNCITRAL had usefully promoted the uniform application of the legal documents it adopted, and the training and technical assistance it provided should be encouraged on a long-term basis. That was an argument for increasing both the human and financial resources available to its secretariat. Given the range of work being done in the progressive development of international trade law, there must be close cooperation between UNCITRAL and the other international organizations active in the field.

59. **Mr. Manongi** (United Republic of Tanzania) said that the Commission's useful and relevant work had often served as a valuable reference for his country's own legislative practice. UNCITRAL must be given the support it needed.

60. His delegation looked forward to the forthcoming completion of the draft legislative guide on privately financed infrastructure projects and was gratified by the concern to balance the interests of both the public and the private sectors.

61. One of the issues still to be resolved in connection with the draft Convention on Assignment in Receivables Financing was the question of debtor-protection in the relationship with the assignee. That matter was of interest to the Governments of developing countries because they, or government-supported enterprises, most often entered into costly procurement contracts, which usually made them debtors. Such Governments were naturally wary of having their obligations to pay assigned or transferred to creditors they had not themselves carefully selected. His delegation was therefore of the view that anti-assignment clauses in public procurement contracts should be treated differently from such clauses in other types of contracts.

62. **Ms. Hallum** (New Zealand) observed that New Zealand had made the UNCITRAL model laws relating to arbitration and the international sale of goods part of its domestic law and had recommended the adoption of the UNCITRAL Model Law on Cross-Border Insolvency.

63. She welcomed the significant progress that had been made in the preparation of the legislative guide on privately financed infrastructure projects. Her delegation agreed that the guide should be sufficiently broad-based to be useful to Governments from a range of constitutional and legal traditions.

64. Valuable work had also been done in the preparation of draft uniform rules on electronic signatures. That the Working Group on Electronic Commerce had been grappling with a means of producing draft rules based on a legislative policy around which consensus could be build was not surprising, given the rapid development and fluidity of the topic. However, she welcomed the Working Group's decision to focus on public key infrastructures and the three functions common to all of them as a way of achieving an internationally acceptable framework. New Zealand's preference was for a set of rules that did not overregulate the use of electronic signatures.

65. In implementation of the UNCITRAL Model Law on Electronic Commerce, the New Zealand Law Commission would shortly be proposing the adoption of an Electronic Transactions Act, which would remove legal barriers to that method of trading. The Model Law was also being actively promoted in the Asia and Pacific region.

66. **Mr. Akinsanya** (Nigeria) drew attention to the invaluable training and technical assistance UNCITRAL provided to developing countries. Unfortunately, the Commission was hampered in discharging that major assignment by inadequate funding; its secretariat should therefore be strengthened and given the resources it needed.

67. He hailed the completion of the draft legislative guide on privately financed infrastructure projects, whose recommendations would guide national lawmakers in the direction of fairness and transparency.

68. In a globalized world, the use of electronic signatures would be an advantage in international trade, and his delegation was encouraged by the determination of the Working Group on Electronic Commerce to formulate rules on the matter despite the inherent difficulties. It also believed that the establishment of a working group on arbitration had been a step in the right direction. However, while collaboration between UNCITRAL and other international bodies working in the areas of insolvency regimes or international commercial arbitration was needed, the Commission must zealously safeguard its identity and independence, which gave the developing countries in particular such confidence in its work.

69. **Mr. Vasquez** (Ecuador), after endorsing the statement made by the representative of Mexico on behalf of the Rio Group, said that the text of the draft legislative guide on privately financed infrastructure projects must now be reviewed as a whole for consistency and flexibility and to

ensure that it reflected a proper balance between the interests of investors, Governments and users. The developing countries would find the guide useful in attracting foreign investment, while investors in developed countries would benefit from clear norms in that area. The guide would also advance the modernization of the applicable domestic laws, and UNCITRAL should be able to adopt it at its next session. Work on the draft Convention on Assignment in Receivables Financing, which would increase the availability of lower-cost credit, had likewise progressed to the point that the text was ready for adoption at the same session.

70. Ecuador was confident that the Working Group on Electronic Commerce would reach consensus on the contentious issues relating to the draft uniform rules on electronic signatures and that it would address new issues as they arose. As for possible future work on insolvency law, his delegation welcomed the forthcoming exploratory session of the Working Group on Insolvency Law on the interesting proposal to develop a model law on corporate insolvency that would encourage the adoption of effective national corporate insolvency regimes.

71. Since the Commission would soon be concluding its work on a number of topics, it should begin to assess the priority of new areas in which it could usefully contribute to predictability in trade relations and to the expansion of international trade to the benefit of all countries. UNCITRAL might, for instance, explore the legal aspects of the financing of international trade in the light of the recent financial crises that had had such adverse effects on the external trade of developing countries.

72. The Commission secretariat had done excellent work in gathering and disseminating information on court judgements and arbitral awards relating to UNCITRAL conventions and model laws in order to promote their uniform interpretation and application and draw international attention to them. UNCITRAL was also doing valuable work in providing training and technical assistance to developing countries, and it was unfortunate that it had not been able to comply with all the requests it had received. The secretariat must be given the human and financial resources it needed for such work.

73. **Mr. Zhdanovich** (Belarus) commended the work accomplished by the Commission during the period under review. Although the Commission had been unable to complete any of the items on its agenda, it had made significant progress on the draft Convention on Assignment in Receivables Financing, on electronic commerce and on privately financed infrastructure projects, and in the legislative implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

74. His delegation also commended the work of the Working Group on International Contract Practices. The Working Group had previously adopted the title, the preamble and draft articles 1 to 24 of the draft Convention on Assignment in Receivables Financing, and his delegation hoped that work on the optional substantive law priority rules would be completed expeditiously so that the draft Convention could be submitted to the Commission for adoption in 2000.

75. He expressed satisfaction at the progress made in the preparation of the draft legislative guide on privately financed infrastructure projects. He noted, however, that the document under consideration (A/CN.9/458) was rather lengthy and suggested that it should be shortened and made more accessible. The legislative guide would be a useful tool for countries with economies in transition that were reviewing and modernizing their legislation pertaining to privately financed infrastructure projects and for countries endeavouring to attract foreign investment for such projects.

76. It was important to continue to monitor the implementation of the 1958 New York Convention. His Government had replied to the secretariat's questionnaire on the subject and was looking forward to the analysis of the information gathered. His delegation called upon the States parties to the Convention that had not yet replied to the questionnaire to do so.

77. The Commission's work in training and technical assistance and in the dissemination of judicial and arbitral awards was commendable. The Commission's seminars and symposia, including those organized at the regional level, were indeed necessary, and the participation of representatives of countries with economies in transition was especially important. It would be useful to conduct briefings during the seminars for legislators, judges, arbitrators and other users of UNCITRAL texts.

78. **Mr. Rao** (Observer for the World Intellectual Property Organization (WIPO)), referring to chapters II and III of the report, said that his delegation had taken note of the proposals made during the discussion of paragraphs 17 to 21 of the draft legislative guide on privately financed infrastructure projects. One of those proposals was that the host country should enact criminal law provisions to combat infringements of intellectual property rights. While awaiting further discussions in the Working Group on that and other proposals, his delegation welcomed the suggestion made in the report (para. 317) concerning possible future cooperation between UNCITRAL and WIPO in respect of rights in

electronic data and software. As WIPO was the sole United Nations agency charged with promoting and protecting intellectual property law and UNCITRAL was the legal arm of the United Nations in international trade law, cooperation between them could be productive.

79. The global economy was currently driven more by technology and knowledge than by physical resources. Intellectual property and electronic commerce affected each other in numerous ways: intellectual property required protection, for instance, from cybersquatters who registered Internet addresses or domain names using recognized trade marks with the object of selling them back at a higher price to the genuine owners. Other abuses included registering Internet addresses which closely resembled a protected trade mark with a view to acquiring business illegally. In the past year WIPO had undertaken global consultations on the subject of Internet domain names and had made recommendations to the Internet Corporation for Assigned Names and Numbers (ICANN). It had recommended that applicants for registration of domain names should conform to certain best practices and administrative procedures, including a uniform and mandatory dispute resolution system to compel cybersquatters to relinquish names acquired illegally, and an exclusion mechanism in favour of owners of well-known trade marks so that others could not register them. ICANN had adopted the thrust of the WIPO recommendations and was considering other outstanding issues.

80. A global conference on electronic commerce had been held at Geneva from 14 to 16 September 1999 under the auspices of WIPO. UNCITRAL had participated in the conference, the highlight of which had been a 10-point Digital Agenda proposed by the Director-General of WIPO. The Agenda included the following: broadening the participation of developing countries in electronic commerce through the use of WIPONET; ensuring the entry into force of the WIPO Copyright Treaty and the Performances and Phonograms Treaty; adjusting the international legislative framework to facilitate electronic commerce; implementing the WIPO recommendations on domain names; establishing appropriate principles at the international level to determine the circumstances of intellectual property liability of on-line service providers; adjusting the institutional framework for using intellectual property in the global economy through, *inter alia*, electronic copyright management systems, on-line licensing of the digital expression of cultural heritage, and on-line administration of intellectual property disputes; introducing on-line procedures for the filing and administration of international applications for the Patent Cooperation Treaty and other treaties; and coordinating with other international organizations on such issues as the validity of electronic contracts and jurisdiction.

81. **Mr. Renger** (Chairman of the United Nations Commission on International Trade Law) said that UNCITRAL was grateful for the attention the Committee had given to its work. The endorsement of Member States was essential to UNCITRAL, as it was the only body in the United Nations system which promoted the unification and harmonization of trade law on a global basis. One of the Commission's strengths was that it operated through consensus. Achieving consensus was not always easy, given the many legal traditions and cultures that Member States represented, but it was possible if all delegations were willing to compromise, as they had been thus far.

82. Some delegations had stressed the need to rationalize the Commission's programme of work, while others — the majority — had supported the Commission's appeal for sufficient resources. UNCITRAL was always aware of the need to make the most effective use of its limited resources. Nevertheless, global acceptance of the Commission's work was possible only with the participation of all delegations.

83. It had always been a matter of serious concern to him that sessional documentation was often issued very late. Such delays were never due to slow editing by the UNICTRAL secretariat, but rather to the lack of translation capacity in the United Nations Secretariat. If, as was sometimes proposed, UNCITRAL entrusted more work to expert groups than to the formal working groups, the documentation would be available only in the working language, if at all. That would not help to maintain transparency in the Commission's work, which was vital to its global acceptance.

The meeting rose at 4.45 p.m.